

ESTTA Tracking number: **ESTTA627227**

Filing date: **09/15/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Ventura Foods, LLC
Granted to Date of previous extension	09/14/2014
Address	40 Pointe Drive Brea, CA 92821 UNITED STATES
Attorney information	Peter K. Hahn Pillsbury Winthrop Shaw Pittman LLP 501 West Broadway, Suite 1100 San Diego, CA 92101 UNITED STATES docket_ip@pillsburylaw.com, peter.hahn@pillsburylaw.com, sandra.edge@pillsburylaw.com, sftrademarks@pillsburylaw.com Phone:619-544-3108

Applicant Information

Application No	85800937	Publication date	03/18/2014
Opposition Filing Date	09/15/2014	Opposition Period Ends	09/14/2014
Applicant	Imajen, LLC PO Box 2213 Lake Oswego, OR 97035 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. First Use: 2012/12/01 First Use In Commerce: 2012/12/01
All goods and services in the class are opposed, namely: Veggie burger patties

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	738304	Application Date	12/08/1959
Registration Date	09/25/1962	Foreign Priority Date	NONE
Word Mark	MARIE'S		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 029. First use: First Use: 1958/08/01 First Use In Commerce: 1959/11/25 Cheese-Flavored Salad Dressing

Attachments	Chez_Marie_Notice_Opposition.pdf(43232 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Peter K. Hahn/
Name	Peter K. Hahn
Date	09/15/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Ventura Foods, LLC

Opposers,

vs.

Imajen, LLC

Applicant.

OPPOSITION NO.

NOTICE OF OPPOSITION

Trademark: CHEZ MARIE

US Serial Number 85/800,937

Goods: Veggie burger patties in class 29.

Filed: December 12, 2012

Published: March 18, 2014

Opposer: Ventura Foods, LLC

Citizenship: Delaware Limited Liability Company

Address: 40 Pointe Drive, Brea CA 92821-3652

Ventura Foods, LLC (“Opposer”), believes that it will be damaged by Imajen, LLC’s (“Applicant”) registration of the published CHEZ MARIE application (Serial No. 85/800,937), and hereby opposes the registration of the mark pursuant to 37 CFR §2.101(b).

An extension of time has been obtained up until September 14, 2014 (Sunday). Therefore, this opposition is timely. As grounds for opposition, Opposer avers as follows:

1. Upon information and belief, Imajen, LLC (“Applicant”) is an Oregon limited liability company, with an address of Post Office Box 2213, Lake Oswego, Oregon 97035.

2. Applicant has applied to register the CHEZ MARIE and design mark shown in Serial No. 85/800,937, filed on December 12, 2012, for “veggie burger patties” in class 29 (hereinafter, “Applicant’s Mark”).

3. On information and belief, no actual or constructive use was made by Applicant in the United States of Applicant’s Mark prior to December 1, 2012.

4. Opposer and its predecessor in interest have continuously used the mark MARIE’s on food products since at least as early as 1959.

5. Opposer’s MARIE’S marks were registered in the U.S. as follows:

Trademark	Registration No.	Goods and Services	Class	First Use
MARIE’S	0738304	Cheese-Flavored Salad Dressing.	29	11/25/1959
MARIE’S	1815051	Salad Dressings and dip, in Class 29; and Sauces; namely, vinaigrettes and glazes, in Class 30.	29, 30	11/25/1959
MARIE’S	1815051	Salad Dressings and dip, in Class 29; and Sauces; namely, vinaigrettes and glazes, in Class 30.	29, 30	11/25/1959
MARIE’S	1815051	Salad Dressings and dip, in Class 29;	29, 30	11/25/1959
MARIE’S	1815051	Salad Dressings and dip, in Class 29;	29, 30	11/25/1959
MARIE’S	1815051	Sauces; namely, vinaigrettes and glazes, in Class 30.	29, 30	11/25/1959
MARIE’S	1815051	Sauces; namely, vinaigrettes and glazes, in Class 30.	29, 30	11/25/1959
MARIE’S	2011861	Salsa.	30	9/11/1995
MARIE’S (Jar label) Design	3776709	Dressings, namely, salad and vegetable dressings.	30	5/31/2003
MARIE’S (Bottle label) Design	3776710	Dressings, namely, salad and vegetable dressings.	30	5/31/2003
MARIE’S. MAKES THE ORDINARY....EXTRAORDINARY	3813833	Providing a database in the field of recipes and cooking information.	43	5/31/2003

Trademark	Registration No.	Goods and Services	Class	First Use
MARIE'S HOMEMADE MINUTE	3935845	Providing non-downloadable instructional videos over the internet in the field of food preparation.	41	4/13/2010
MARIE'S HOMEMADE MINUTE and Design	3935846	Providing non-downloadable instructional videos over the internet in the field of food preparation.	41	4/13/2010
MARIE'S Stylized	3953465	Dips, in Class 29, Salad and vegetable dressings; fruit glaze, in Class 30; and Providing a database in the field of recipes and cooking information, in Class 43.	29, 30, 43	5/31/2003
MARIE'S Stylized	3953465	Dips, in Class 29	29, 30, 43	5/31/2003
MARIE'S Stylized	3953465	Salad and vegetable dressings; fruit glaze, in Class 30;	29, 30, 43	5/31/2003
MARIE'S. MAKES THE ORDINARY....EXTRAORDINARY	4023551	Salad dressings, sauces, marinades.	30	10/31/2008
MARIE'S CULINARY CORNER	4216241	Providing a website featuring cooking tips and recipes.	43	11/30/2008
MARIE'S. MAKES THE ORDINARY...EXTRAORDINARY	4227081	Dips.	29	8/14/2012
MARIE'S	813108	Cheese Dressing, Thousand Island Dressing, Mayonnaise, French Dressing, Italian Dressing, Tartar Sauce, sour Cream potato topping, barbeque sauce, tomato horseradish, mustard horseradish, sour cream horseradish, pure prepared horseradish, maple syrup, and ham glaze.	30	11/25/1959

6. Opposer's MARIE'S mark is strong and famous.

7. Upon information and belief, Applicant made no use of Applicant's Mark prior to the use of the mark MARIE'S by Opposer and its predecessor in interest.

8. Notwithstanding Opposer's prior rights in and to the mark MARIE'S, Applicant is seeking to register Applicant's Mark.

9. The use and registration by Applicant of Applicant's Mark is without Opposer's consent and is likely to cause confusion in the minds of consumers as to the source, affiliation, endorsement and/or association between Applicant, Opposer and their respective goods.

10. Given the similarities between the marks, the relatedness of the respective goods and Opposer's prior registration and use in the United States, Applicant's Mark, when used on or in connection with the goods of Applicant, is likely to cause confusion, and mistake as to the source or sponsorship of Applicant's goods under Section 2(d) of the Act.

11. Consumers are likely to mistakenly presume that there is a connection between Applicant and Opposer that does not exist, or that Applicant's goods are affiliated with, licensed, endorsed or sponsored by Opposer.

12. The registration of Applicant's Mark on the Principal Register would be inconsistent with Opposer's rights under the above-referenced registrations and common law, and would be damaging to Opposer.

13. Registration of the mark CHEZ MARIE would provide Applicant with prima facie exclusive rights therein and would interfere with Opposer's rights in the mark.

14. Opposer has the right to continue using the mark MARIE'S in connection with its goods without interference by Applicant and without likelihood of confusion, mistake or deception.

In view of the foregoing, Opposer believes that it will be damaged by the registration of CHEZ MARIE to Applicant and prays that the registration be denied.

The official fee is submitted herewith. Charge any missing fee to Account No. 033975

Order No. 083122-0000044

Date: September 15, 2014

Respectfully submitted,

By: /peter k. hahn/

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Attorneys for
Ventura Foods, LLC

CERTIFICATE OF SERVICE

I, Peter K. Hahn, hereby certify that on this 15th day of September, 2014, a true copy of the foregoing **NOTICE OF OPPOSITION** was served on Applicant's counsel of record by depositing said copy, via certified First Class Mail, in the United States mail in a sealed envelope with postage thereon fully prepaid, addressed as follows:

BONNIE CAFFERKY CARTER
5895 JEAN RD # 106
LAKE OSWEGO, OREGON 97035-5303

Executed: September 15, 2014

/peter k. hahn/
Peter K. Hahn

CERTIFICATE OF FILING

I, Peter K. Hahn, hereby certify that on this 15th day of September, 2014, an electronic copy of Opposer's' foregoing **NOTICE OF OPPOSITION** was electronically filed in the United States Patent and Trademark Office Before the Trademark Trial and Appeal Board Electronic Filing System.

Executed: September 15, 2014

/peter k. hahn/
Peter K. Hahn